

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

TERON FRANKLIN,

Petitioner,

v.

N. BRIETENBACH, *et al.*,

Respondents.

Case No. 3:25-cv-00247-MMD-CLB

ORDER

I. SUMMARY

This matter is before the Court for initial review of Petitioner Teron Franklin's *pro se* 28 U.S.C. § 2254 petition for writ of habeas corpus under the rules governing § 2254 cases.¹ (ECF No. 1-1 ("Petition").) Also before the Court is Franklin's application to proceed *in forma pauperis*. (ECF No. 1 ("IFP Application").) The Court, grants the IFP Application, dismisses without prejudice the Petition for lack of jurisdiction, and directs the Clerk of Court to close this case.

II. BACKGROUND

Franklin challenges a 2012 state conviction and sentence. The state court entered a judgment of conviction for battery causing substantial bodily harm. Franklin was adjudicated a habitual offender and the state court sentenced him to life in prison without the possibility of parole. Following direct appeal, the Nevada Supreme Court affirmed the judgment of conviction. The Nevada court of appeals affirmed the denial of Franklin's state postconviction habeas petition in February 2018. Franklin acknowledges that he has previously challenged the judgment of conviction at issue in this case in federal court, and

¹All references to a "Habeas Rule" or the "Habeas Rules" in this order identify the rules governing § 2254 cases in the United States District Courts. Petitioner filed the petition under 28 U.S.C. § 2241; however, the Court will apply the Rules in this action as authorized by Habeas Rule 1(b).

1 his federal habeas petition was denied on the merits. (ECF No. 1-1 at 1-2.)

2 **III. DISCUSSION**

3 Franklin was denied federal habeas corpus relief in 2021. (ECF Nos. 48, 49.) See
4 *Franklin v. Filson*, Case No. 3:18-cv-002150-MMD-CLB. The Antiterrorism and Effective
5 Death Penalty Act generally limits habeas petitioners to one round of federal habeas
6 review. See 28 U.S.C. § 2244. Franklin has already received federal habeas review of his
7 conviction. To receive further collateral review, he must secure permission from the Ninth
8 Circuit to file a second or successive § 2254 habeas petition.² See *Brown v. Muniz*, 889
9 F.3d 661, 667 (9th Cir. 2018) (noting that under § 2244(b)(3), federal district courts lack
10 jurisdiction to entertain a petitioner's successive habeas petition absent permission from
11 the court of appeals to do so). Although Franklin has attached an application for leave to
12 file a second or successive petition, he must submit such application to the Ninth Circuit
13 and make the requisite showing to convince the Ninth Circuit to grant him leave to file his
14 second or successive habeas petition. Franklin is directed to consult Ninth Circuit Rule
15 22-3 for further information. Accordingly, the Court denies the Petition and dismisses this
16 action without prejudice to its refiling, should Franklin obtain permission to do so from the
17 Ninth Circuit.

18 **IV. CONCLUSION**

19 It is therefore ordered that Petitioner Teron Franklin's petition for writ of habeas
20 corpus (ECF No. 1-1) is dismissed without prejudice as to its refiling, should Franklin
21 obtain permission from the Ninth Circuit.

22 It is further ordered that Franklin's IFP Application (ECF No. 1) is granted.

23 The Clerk of Court is further directed, under Rule 4 of the Rules Governing Section
24 2254 Cases, to make informal electronic service upon the respondents by adding Nevada
25 Attorney General Aaron D. Ford as counsel for the respondents and to provide the
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27 ²The All Writs Act, 28 U.S.C. § 1651, allows the Court to grant extraordinary writs
28 where the Court has jurisdiction. See *Syngenta Crop Protection, Inc. v. Henson*, 537 U.S.
28, 33-34 (2002). Thus, it does not provide an independent basis for jurisdiction for a
petition for a writ of mandamus or prohibition. See *id.*

1 respondents an electronic copy of all items previously filed in this case by regenerating
2 the Notice of Electronic Filing to the office of the AG only. No response is required from
3 respondents other than to respond to any orders of a reviewing court.

4 It is further ordered that that Petitioner is denied a certificate of appealability, as
5 jurists of reason would not find the Court's dismissal of the Petition to be debatable or
6 wrong.

7 The Clerk of Court is further directed to enter final judgment accordingly and close
8 this case.

9 DATED THIS 24th Day of June 2025.

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12 MIRANDA M. DU
13 UNITED STATES DISTRICT JUDGE
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